

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	:
	: CASE NO. 1:09CR043-01
	Plaintiff :
	:
-VS-	:
	:
JOSEPH D. KIZER	:
	: <u>ORDER ACCEPTING PLEA</u>
	: <u>AGREEMENT AND JUDGMENT AND</u>
	: <u>NOTICE OF HEARING</u>

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Greg White regarding the change of plea hearing and plea agreement of Joseph D. Kizer which was referred to the Magistrate Judge with the consent of the parties.

On 29 January 2009, the government filed a two-count indictment against Joseph D. Kizer for armed bank robbery in violation of 18 U.S.C. § 2113(a) and (d), and using and brandishing a firearm during a crime of violence in violation of 18 U.S.C. § 924(c). On 5 February 2009, a hearing was held in which Joseph D. Kizer entered a plea of not guilty before Magistrate Judge David S. Perelman. On 17 March 2009, Magistrate Judge White received Joseph D. Kizer's plea of

guilty and issued a Report and Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Joseph D. Kizer is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Joseph D. Kizer is adjudged guilty of Counts One and Two in violation of 18 U.S.C. § 2113(a) and (d), and 18 U.S.C. § 924(c).

Sentencing will be:

9 June 2009 at 10:30 a.m.

**Courtroom 19-A
19th Floor, United States District Court
801 West Superior Avenue
Cleveland, Ohio 44113**

IT IS SO ORDERED.

Dated:

April 3, 2009

Kerry Driscoll
UNITED STATES DISTRICT JUDGE